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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/506,639	09/02/2004	Jay Cousins	2754U.001	4782

21917 7590 05/14/2007  
MCHALE & SLAVIN, P.A.  
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PALM BEACH GARDENS, FL 33410

EXAMINER
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DEMEREE, CHRISTOPHER R

ART UNIT	PAPER NUMBER
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3709

MAIL DATE	DELIVERY MODE
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05/14/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/506,639

Applicant(s)

COUSINS, JAY

Examiner

Christopher Demeree

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 02 September 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 08/18/2005
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Claim Objections***

1. Claims 7-19 are objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim cannot depend from any other multiple dependent claim. See MPEP § 608.01(n).

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 20 rejected under 35 U.S.C. 112, second paragraph, as being indefinite in that it fails to point out what is included or excluded by the claim language. This claim is an omnibus type claim.

The scope of the claim is not clearly defined as to the appropriate combination of the drawings.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3, 7-14 are rejected under 35 U.S.C. 102(b) as being anticipated by Vinther (US 5460324 A).

Regarding claim 1, Vinther discloses a foldable cup comprising a sheet of material (Abstract lines 1-5) having a container piece integral with at least one handle

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piece, said container having fold lines enabling it to be transformed from a flat configuration into a folded container (See Figure 2), and said handle piece having fold lines enabling the handle piece to be formed into a handle extending from and held in position relative to the container (Col 3 lines 32-35).

Regarding claims 2 and 12, Vinther discloses a foldable cup that comprises one integral handle piece (See Figure 2; Col 3 32-35).

Regarding claim 3, Vinther discloses a foldable cup that comprises two integral handle pieces (Col 5 lines 35-40).

Regarding claim 7, Vinther discloses a foldable cup wherein the folded container is formed by folding the container piece about fold lines thereon (Abstract lines 6-10).

Regarding claim 8, Vinther discloses a foldable cup wherein the container piece fold lines define at least two corner pieces at the intersection of the folding lines (Col 6 lines 53-54).

Regarding claims 9-11, Vinther discloses a foldable cup wherein at least two corner pieces are folded across one another and secured by an integral fastening means through the use of "cleats" (Col 5 42-45). These cleats could be fastened via mating connection elements such as press-stud fastenings.

Regarding claim 13, Vinther discloses a foldable cup wherein fold lines define at least one face over which at least two corner pieces can be folded and fastened through the use of tabs (Col 5 lines 42-45).

Regarding claim 14, Vinther discloses a foldable cup wherein the container piece fold lines define a self-supporting rectangular base (Col 7 lines 48-52).

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Regarding claims 16 and 17, Vinther discloses a foldable cup wherein the sheet of material can be coated with a waterproof plastics material (Col 1 lines 37-43).

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 4-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vinther (US 5460324 A) in view of Kim (US 6527169 B2).

Regarding claims 4-6, Vinther discloses a foldable cup as described above, but lacks handle piece fold lines that define a central gripping section. However, Kim teaches of a paper cup having an integral handle wherein said handle piece fold lines define a central gripping section through the employment of "reinforcing flaps" (Col 3 lines 7-10; Figure 1). Also, Kim teaches that the handle is connected to the container by the use of integral fastening means (Abstract lines 1-2). It would have been obvious to one skilled in the art at the time the invention was made to modify Vinther to include a handle on the cup that has fold lines that define a gripping section with "reinforcing flaps" so that the cup could be more easily carried by the handle.

Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Vinther (US 5460324 A) in view of Hashimoto et al. (US 2002/0038816 A1).

Regarding claim 15, Vinther discloses a foldable cup as described above, but lacks a substantially dodecagonal shape to the container piece sheet of material.

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Hashimoto et al., however, teach of a paper container that is dodecagonal, or twelve-sided (See Figure 1; par. 0027 lines 1-2). It would have been obvious to one skilled in the art at the time the invention was made that it was possible to modify Vinther to make the container substantially twelve-sided so that the container could closely resemble a circular cup, yet maintain its foldable characteristics.

Claims 18 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vinther (US 5460324 A) in view of Weder et al. (US 5753327 A).

Regarding claims 18 and 19, Vinther discloses a foldable cup as described above, but lacks teaching that the waterproof plastics material coating the container is polypropylene. However, Weder et al. disclose an article forming system wherein a sheet of material is coated with polypropylene for its water resistant characteristics as well as its flexibility to allow folding (Col 2 lines 38-42). It would have been obvious to one skilled in the art at the time the invention was made to modify Vinther to coat container sheet of material with polypropylene so that the foldable cup would be waterproof as well as flexible to allow folding.

### ***Conclusion***

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Fantoni et al. (US 5213253); Hirata (US 4391366). These references teach of foldable cups with integral handles.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher Demeree whose telephone number is (571)

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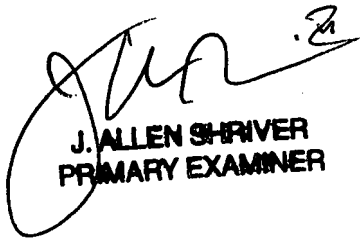
270-1982. The examiner can normally be reached on Mon-Fri, 8:00 AM-5:00PM, Alt Fri, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Jackson can be reached on (571) 272-4697. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

CD

4/9/2007

  
J. ALLEN SHRIVER  
PRIMARY EXAMINER